

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
CRIMINAL CASE NO. 2:06-cr-00010-MR-DLH-1**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRUCE LEE RICHARDSON,

Defendant.

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ORDER

THIS MATTER is before the Court upon the Defendant's "Motion Requesting the Honorable Court to Reopen It's [sic] Ruling on the Government's Motion for a Sentencing Reduction Pursuant to 5K1.1 and Title 18 U.S.C. § 3553(e)" [Doc. 113].

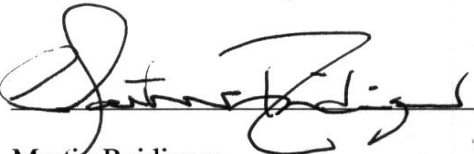
The Defendant moves the Court to revisit its Order granting the Government's motion for a downward departure based upon the Defendant's substantial assistance. For grounds, the Defendant argues that an additional sentence reduction is warranted because he and his family have "suffered a tremendous amount of risk due to his cooperation." [Doc. 113 at 8].

The Defendant has not stated any legal basis on which the Court may reopen the judgment entered in this case. Moreover, to the extent that the Defendant contends that he is entitled to a further sentence reduction, his request must be denied. Only the Government may bring a motion for a reduction of sentence based on substantial assistance. See Fed. R. Crim. P. 35(b); United States v. Gibbs, 220 F.R.D. 450, 451 (W.D.N.C.) (“The Government, not a defendant or the Court, makes the initial determination as to whether a defendant has provided substantial assistance after sentencing.”), aff’d, 71 Fed. Appx. 990 (4th Cir. 2003). Furthermore, as previously noted by this Court [Doc. 95 at 3], the Defendant in the execution of his plea agreement waived any right to contest the degree of or recommendation for a downward departure based on substantial assistance. For all of these reasons, the Defendant’s Motion is denied.

IT IS, THEREFORE, ORDERED that the Defendant’s “Motion Requesting the Honorable Court to Reopen It’s [sic] Ruling on the Government’s Motion for a Sentencing Reduction Pursuant to 5K1.1 and Title 18 U.S.C. § 3553(e)” [Doc. 113] is **DENIED**.

IT IS SO ORDERED.

Signed: September 5, 2014


Martin Reidinger
United States District Judge

